

IN THE COURT OF THE JUDICIARY OF ALABAMA  
NUMBER 39

IN THE MATTER OF:  
M. JOHN STEENSLAND, JR., RETIRED  
DISTRICT JUDGE OF THE TWENTIETH  
JUDICIAL CIRCUIT OF ALABAMA

ON A COMPLAINT BY  
THE ALABAMA JUDICIAL INQUIRY COMMISSION

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PRE-TRIAL BRIEF OF THE JUDICIAL INQUIRY COMMISSION

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## **STATEMENT OF THE ISSUES**

1. DOES THE COURT HAVE THE AUTHORITY TO SANCTION A RETIRED JUDGE
2. WHAT ARE THE RELEVANT FACTORS TO DETERMINE THE APPROPRIATE SANCTION
3. DOES THE CONDUCT OF JUDGE STEENSLAND WARRANT SANCTION

## SUMMARY OF THE COMPLAINT

### COUNT ONE

**Ms. Stacie Deanne Flowers Rae** received a traffic citation for speeding (83 in a 65mph zone). Ms. Rae entered a plea of not guilty and requested that her case be set for a trial. On the appropriate trial date, Ms. Rae appeared *pro se*. **Judge M. John Steensland** was hearing the *pro se* trial docket that day. Ms. Rae's case was the first called on the docket and after a hearing, Judge Steensland found her guilty. The Judge imposed a sentence of ten days to serve and Ms Rae was immediately taken into custody, placed in handcuffs and leg irons, and then placed in a chair at the front of the court room. Ms. Rae explained to the Court and to other Court personnel that she was a combat veteran, disabled and that she suffered from post-traumatic stress disorder.

Ms. Rae was held in the courtroom during the remainder of the docket. During that entire time she displayed severe emotional and physical distress. Ms. Rae's distress was so obvious that **Deputy Jeff Hunter** made several attempts to calm her. Ms. Rae was advised by the Deputy and others that "Judge Steensland frequently sentenced a defendant to jail, let's that defendant sit in the courtroom until the docket was completed and then

suspends the sentence."

During the remainder of the docket, Judge Steensland frequently asked if the defendant before him wanted to plead guilty or end up in the same state as this young lady (Ms. Rae) did. Further, Judge Steensland repeatedly and loudly used profanities and demeaning insults directed at the defendant before him and toward the remaining defendants in the courtroom as a whole.

At the completion of the docket, Judge Steensland reduced Ms. Rae's sentence to a fine and costs and set aside the term of confinement. In all, Judge Steensland disposed of a *pro se* trial docket of forty-one cases with the only trial being that of Ms. Rae.

#### **COUNT TWO**

Ms. Rae was so disturbed by her treatment by Judge Steensland that she filed a complaint with the Judicial Inquiry Commission. Ms. Rae also related her experiences with Judge Steensland to the local media, including the Dothan Eagle newspaper. Ms. Rae was subsequently contacted by that newspaper and asked to comment on a letter sent to the paper by Judge Steensland. Judge Steensland had sent a "letter of apology" to Ms. Rae and had sent a copy to the newspaper. In that letter, Judge Steensland attempted

to explain his treatment of Ms. Rae in the courtroom and indicated that he was making a personal commitment to be more "sensitive" in the future.

### COUNT THREE

On the same *pro se* trial docket with Ms. Rae, was **Calen Marques**, an 18 year old senior in high school, also charged with speeding. Mr. Marques was accompanied to court by his Mother, **Ms. Julie Marques**. Ms. Marques had observed the treatment of Ms. Rae in the courtroom and the use of profanities and insults and the general demeanor of Judge Steensland. When her son Calen's case was called, Ms. Marques insisted that her son plead guilty rather than request a trial. Judge Steensland called for those in the courtroom to pay attention as Ms. Marques was advising her son and that they should "pay attention here. See what is smart thing to do."

Ms. Marques and her son left the courtroom and went to the Clerks' Office to pay the fine and costs. There she complained to the clerk about the intimidation and demeanor of Judge Steensland and his use of profanities in the courtroom. At the same time that Ms. Marques was at the Clerk's Office others who had been in Judge Steensland's courtroom also complained of the Judge's conduct and that his actions had intimidated them into pleading guilty.

The assistant court clerk, **Ms. Linda Jerkins-Kelly**, was so disturbed by the tenor of the complaints of the defendants coming from Judge Steensland's courtroom that she called her supervisor, **Julie Johnson**. Later, Ms. Johnson called Ms. Jerkins-Kelly from Judge Steensland's courtroom and informed her that Judge Steensland had issued instructions that if anyone else came to the clerk's office with complaints about his courtroom she (Ms. Jerkins-Kelly) was to have a deputy arrest the complainant and bring them directly back to Judge Steensland's courtroom.

#### **COUNT FOUR**

**Ms. Natasha Renee Harris** was the complaining witness in a case before Judge Steensland. When she was asked to tell the court the facts that resulted in her complaint. Ms. Harris advised the court that she had a medical disorder that impaired her memory and she did not have a good memory of the incident. Judge Steensland became extremely irate and announced that Ms. Harris was going to jail, that he was not going to put up with people coming to court and telling lies. He then ordered that Ms. Harris be placed in custody. Judge Steensland never authorized a warrant nor specified any charge to be

placed against Ms. Harris. Without a warrant or a charge Ms. Harris was prevented from obtaining a bond for her release. It was not until the following day that Ms. Harris was finally released from jail. Approximately thirty days later, another Judge dismissed the "case" against Ms. Harris as no arrest warrant had ever been filed.

On the same day that Ms. Harris was placed in custody by Judge Steensland, **Ms. Cynthia Kay McDaniel** was in the courtroom and had observed the colloquy between Judge Steensland and Ms. Harris. Ms. McDaniel was with her daughter, **Ms. Alissa Little**, who was in the pre-trial diversion program due to a domestic violence charge made by Ms. McDaniel. When Ms. Little's case was called and the prosecutor attempted to have Ms. McDaniel state the facts, Ms. McDaniel advised Judge Steensland that she also had a memory problem (due to the medications she was taking) and that if he (Judge Steensland) was going to lock people up because they don't have a memory she would be upfront and advise the court she did not remember parts of what had happened. Judge Steensland then asked Ms. Little if she wanted to "change her plea so your momma doesn't go to jail?" Ms. McDaniel refused to allow her daughter to change her plea and Judge Steensland ordered Ms. McDaniel to be placed in custody. There was never a specified charge nor warrant

signed against Ms. McDaniel making it difficult for her to obtain a bond for her release. Ms. McDaniel was not able to obtain her release from custody until the following day. Some days later, the "case" was dismissed by another Judge due to lack of a warrant ever being signed against Ms. McDaniel.

#### **COUNT FIVE**

**Ms. Rhonda Kaye Thomley** had adopted her two grandchildren because of her daughter's, **Ms. Krysta Mullis**, drug problems. After the adoption, Ms. Thomley's daughter continuously made attempts to take the children from Ms. Thomley. On one occasion when the children were at a ballpark, her daughter attempted to leave the park with the children and a physical confrontation between mother and daughter ensued. Ms. Thomley filed a petition for a protection from abuse order and Judge Steensland presided at the hearing on that petition. At the hearing Judge Steensland ordered that the parties attend mediation. When she was advised that she had to pay for the mediation, Ms. Thomley objected because she could not afford it. Ms. Thomley further objected to the mediation when she was advised that providing her daughter unsupervised visitation with the children was one of the goals of the mediation. When she returned to court Judge Steensland ordered Ms.

Thomley to allow Ms. Krysta Mullis have visitation with the children. When Ms. Thomley reminded Judge Steensland that she had adopted the children and that she could not allow visitation because her daughter was still a drug addict and posed a danger to the children, Judge Steensland dismissed her petition for protection from abuse for failure to cooperate with the mediator and with the court.

On the same date that Judge Steensland dismissed Ms. Thomley's petition, he presided over a second hearing where a teenage female asked for protection from a boyfriend who had beaten her. When the case was called, Judge Steensland asked the young girl "what had she done to make him mad, because you know you women do something to make us mad or we'll never hit you?" When the young girl could not respond, Judge Steensland dismissed her petition.

On another petition for protection on that same date, an elderly female whose two sons had burglarized her residence, and then robbed and assaulted her, was before Judge Steensland to seek protection. Judge Steensland's initial comment to the petitioner was, " you must be the sorriest mother on earth to have raised, not one bad child, but two."

## COUNT SIX

During his term on the bench, it was a common practice for Judge Steensland to:

- Convict the first defendant who asserts their right to a trial on the merits rather than plead guilty, impose a severe custodial sentence, and then have that defendant remain in the courtroom in handcuffs. Then at the conclusion of the docket, Judge Steensland would amend the sentence to set aside the custodial sentence.
- Ask subsequent defendants if they want to join that person (referring to the first defendant convicted who would present in the courtroom and be in handcuffs) or would they rather plead guilty.
- Ask the defendant if he wants a jury trial in the presence of the jury venire and then revoke the defendants bond if he maintained a request for a trial.
- Enter an Order after hearing only one side of a dispute.
- Yell, demean, and otherwise intimidate defendants in the courtroom, particularly *pro se* defendants.
- Use profanities from the bench.
- Inquire of the complaining witness why they would associate with the defendant in the first place.
- Inquire what the complaining witness did to get the

defendant mad and cause the defendant to assault them.

- In open court, during the course of hearing testimony, accuse a witness/complainant of lying.
- Ask a defendant requesting appointed counsel to turn and face the courtroom and show his (gold capped) teeth to the people present.
- Inquire if an indigent defendant wanted to make it easy on their self or did they want a lawyer.
- Inquire about the facts of a case during arraignments and prior to the defendant having counsel.

On one particular occasion, an elderly black male was brought before Judge Steensland on a minor misdemeanor charge. Before any testimony, Judge Steensland ask the gentleman if he could dance and then requested that he do so. The elderly black male did so in front of the court room.

#### **COUNT SEVEN**

In his responses to the Judicial Inquiry Commission, Judge Steensland made material misrepresentations of fact in that:

- Denied that he ever asked the mother of effeminate defendant if she was proud of her son.
- Denied that he placed Ms. Stacie Rae in handcuffs

and leg-irons with the intent to intimidate other defendants in the courtroom.

- Denied that he instructed the clerk's office to have a deputy arrest any defendant who made complaints about the conduct of his courtroom.
- Denied that he made a common practice of sentencing a traffic offender to jail time and holding them in the courtroom in handcuffs and /or leg irons until the end of the docket and then commuting the sentence.

Judge Steensland stated that his sentence of ten days to serve for Ms. Rae for a simple speeding charge was based on a determination that her testimony to the court was "false." Judge Steensland also stated that Ms. Rae's conclusion that he used her sentence as a means of coercing guilty pleas from the remaining defendants was not accurate.

Referring to Ms. Thomley's case, Judge Steensland stated that if anyone was contemptuous, it was Ms. Thomley when she refused to allow her daughter to regain custody of the children that Ms. Thomley had adopted.

## ARGUMENT

### 1

#### DOES THE COJ HAVE THE AUTHORITY TO DISCIPLINE FORMER JUDGES

Judge M. John Steensland took office as a District Judge for Houston County in January, 1989. He retired from the bench on May 7, 2010. All of the incidents in the Complaint filed by the Judicial Inquiry Commission (JIC) occurred prior to Judge Steensland's retirement.

The Alabama Constitution, Article VI, Section 157, provides for the Court of the Judiciary. Section 157(a) provides, in part, that the Court, "...shall have authority ...(1) to remove from office, *suspend without pay, or censure a judge*, or apply such other sanction as may prescribed by law..."

The Code of Alabama, 1975, §12-18-7(b), provides, in part, "The retiring justice or judge, upon being retired, *shall take the oath of office as a retired justice or judge and thereupon become an extra or additional judge of the state.*"

In *Johnson vs Board of Control of the Employees Retirement System of Alabama*, 740 So.2d 999 (Ala.1999), the Supreme Court of Alabama spoke to the difference in

a "retired judge" and a "retired judge on active status." There, Judge Inge P. Johnson had served a sufficient term of office to qualify to "retire" under the State of Alabama's Judicial Retirement System. That system challenged her ability to continue to receive her retirement benefits when she accepted appointment as a United States District Judge alleging that the Judge was holding "two offices of profit". The System based its argument on the proposition that, as a "retired judge" Judge Johnson had to continue to be available as an "extra judge" and thus was holding an "office of profit" for the State and a second "office of profit" as a Federal District Judge. The Court held that "retired judges" were either active or inactive, and that choice was made by each individual judge. An "inactive judge" was just that, a retired judge. An "active judge" after he has been requested to serve, has agreed to serve, and has been appointed to serve, has the authority to exercise "sovereign power." A "retired judge" on inactive status does not have this authority and is therefore, not holding an "office of profit." *Johnson*, at 1012. Here, Judge Steensland is a "retired judge on inactive status" and *holds the office of a retired judge*.

The Supreme Court of Alabama, in *Hogan v Bronner*, 491 So2d 226 (Ala.1986), held that former Mobile County

Circuit Judge Hogan, upon his conviction for bribery while an active *Circuit Judge*, was constitutionally unfit to hold office and removed him from his then office as a *retired judge* under the judicial retirement law.

This Court, in Court of the Judiciary case number 27, In the matter of William H. Robertson, *Retired Judge* of the Circuit Court of the Third Judicial Circuit of Alabama, August 14, 1997, found Judge Robertson guilty of violations, all of which occurred prior to his retirement. This Court then imposed sanctions including a public censure and *suspension from his office as a retired judge for a period of one month without pay.*

The question of the authority to discipline former judges has been considered by courts in several other states. *In the Matter of Backal*, 660 N.E. 2D 1104, (New York 1995), a New York court held that judicial discipline proceedings have purposes other than punishment and *those goals cannot be achieved if leaving office insulates a judge from discipline for misconduct.* A Court in the State of Michigan, in *Matter of Probert*, 308 N.W.2d 773 (Michigan 1981), found that even if a judge is no longer presiding over cases, a sanction may still be essential to the preservation of the integrity of the judicial system, especially if that integrity has

been critically undermined, *because the alternative, silence, may be construed by the public as an act of condonation.* The Vermont Supreme Court noted that the public is entitled to know about judicial misconduct and *cases involving former judges serve as a guide for the entire judiciary.* *In re Steady*, 641 A.2d 117, (Vermont 1994).

The Court of the Judiciary clearly has the authority to impose sanctions on Judge Steensland for his conduct prior to his retirement.

## 2

### **WHAT ARE THE RELEVANT FACTORS TO DETERMINE THE APPROPRIATE SANCTION**

Supreme courts have repeatedly stated that the purpose of discipline in judicial conduct cases is not to punish a judge. Instead, the general purpose of judicial discipline proceedings is preserving the integrity of the judicial system and public confidence in the system and, when necessary, safeguarding the bench and the public from those who are unfit.

More specific reasons include:

- Impressing upon the judge the severity and significance of the misconduct.
- Deterring similar conduct by the judge and others.
- Reassuring the public that judicial misconduct is

not tolerated or condoned.

- Fostering public confidence in the self-policing system.

A Study of State Judicial Discipline Sanctions,  
Cynthia Gray, 2002, at 3.

Some factors identified in cases as relevant to the sanction decision are:

- **Whether the misconduct occurred in the judge's official capacity** or in the judge's private life
- **Whether the misconduct occurred in the courtroom** or in the judge's administrative role
- **Whether the judge exploited the judicial position to satisfy personal desires**
- Whether the misconduct constituted a crime, particularly one of a type over which the judge's court has jurisdiction
- Whether the misconduct involved dishonest acts or moral turpitude
- **Whether the judge acted in bad faith, good faith, intentionally, knowingly, or negligently**
- **Whether the judge's act was spontaneous, premeditated, or deliberate**
- **Whether the judge was motivated by compassion for others or for personal profit, vindictiveness, ill-will, or other dishonest or selfish motives**
- **Whether the conduct involved the appearance of impropriety or an actual impropriety**

- Whether the misconduct affected or appeared to affect the administration of justice
- Whether the misconduct undermined the ability of the justice system to discover the truth or to reach the most just result or merely delayed the result
- Whether the judge's conduct was contrary to a public policy to which the state has made a commitment
- Whether the misconduct involved the unequal application of justice on the basis of such considerations as race, color, ethnic background, gender, or religion
- Whether the misconduct evidenced lack of independence or impartiality.
- Whether the misconduct was an isolated instance or part of a pattern or course of conduct .
- Whether the misconduct took place over a significant period
- The actual or potential for harm to the court system, to litigants, and to the public's perception of the fairness of the judicial system
- . The number of victims
- . The vulnerability of the victims
- . Whether there was indirect economic detriment to the public.

A Study of State Judicial Discipline Sanctions,  
Cynthia Gray, 2002, at 81.

**DOES THE CONDUCT OF JUDGE STEENSLAND  
WARRANT SANCTION.**

Judicial discretion is rarely a matter that constitutes judicial misconduct. An exception to this rule is when a judicial decision is made in bad faith or for a purpose other than the discharge of judicial duties. A judge's sentence in a particular matter may be the basis for sanction *where the sentence imposed is unusually severe for a purpose other than punishment for the crime*, i.e., a defendant requests a jury trial; or, to teach a lesson to someone other than the defendant. *In re Cox*, 680 N.E.2D 528 (Indiana, 1997); *In the Matter of Lindall-Cloud*, (New York State Commission on Judicial Conduct, July, 14, 1995).

Here, Judge Steensland heard the testimony in what can best be described as a "simple speeding ticket." He imposed a sentence of ten days incarceration and had the defendant, Ms. Stacie Rae, taken into immediate custody and placed in handcuffs and leg irons at the front of the courtroom. As the remaining defendant's came before the court Judge Steensland repeatedly drew their attention to Ms. Rae, who was in obvious emotional and physical distress. Judge Steensland would ask if the defendant before him wanted to plead guilty or end up in the same state as this young lady (Ms. Rae) did.

Ms. Marques refused to allow her son to plead not guilty as a result of the actions and demeanor of Judge Steensland. A total of forty-one *pro se* defendants whose cases were set that date, and who had on a prior date requested a trial on the merits, plead guilty rather than risk a trial before Judge Steensland.

People appearing *pro se* are the least able to defend themselves against rude, intimidating or incompetent judges. *In the Matter of Hammermaster*, 985 P.2d 924 (Washington, 1999). The incidents enumerated in the Complaint against Judge Steensland are almost exclusively incidents where *pro se* defendants and/or complaining witnesses are appearing in a case before Judge Steensland.

A Texas Review Tribunal removed a former judge and prohibited him from holding judicial office in the future for repeatedly using extremely obscene language in his courtroom. *In re Bartie*, 136 S.W.3d 81 (Texas Review Tribunal 2004). The Tribunal found that the judge had used abusive and obscene language to intimidate litigants , criminal and civil, as well as reporters and staff members.

A Washington Supreme Court suspended a judge without pay

for deriding the intelligence of *pro se* litigants. Several litigants and attorney's testified they were embarrassed by the judge's degrading treatment and felt mocked, attacked and uncomfortable in the courtroom. The Court rejected the judge's contention that courtroom speech and conduct are protected by the First Amendment and held that Judges *do not have a right to use rude, demeaning, and condescending speech towards litigants.* The Court further noted that the particular judge's long years on the bench aggravate, rather than mitigate the conduct. The judge should have known better. *In the Matter of Eiler*, 2010 WL 3036753 (August 5, 2010).

Here, the complaints of the persons coming from Judge Steensland's courtroom concerning his actions toward Ms. Rae, his demeanor and his use of profanities were so emphatic that the Assistant Clerk accepting payments for costs and fines became alarmed and called her supervisor and requested that something be done. When made aware that complaints about his conduct were being made in the clerk's office, Judge Steensland, from the bench, issued an Order that the Clerk's have a deputy arrest any person making a complaint about the activities in his courtroom and immediately return that person to his courtroom.

On prior dockets, Judge Steensland showed a consistent

and remarkable lack of sensitivity towards victims of domestic violence. Judge Steensland inquired of a teenage female victim seeking protection from the assaults of her boy-friend, *"what had she done to make him mad, because you know you women do something to make us mad or we'll never hit you?"* On that same day, Judge Steensland comments to an elderly female whose two sons had burglarized her residence, and then robbed and assaulted her, *"you must be the sorriest mother on earth to have raised, not one bad child, but two."* Judge Steensland incarcerated Ms. Harris and Ms. McDaniel, when they advised the court that, for medical reasons, they could not remember all of the facts in their complaint's seeking protection for themselves.

The New York State Commission on Judicial Conduct removed a judge from the bench for insensitive comments to or in the presence of victims of domestic violence. The judge, during an arraignment for violating an order of protection by hitting his wife, stated "What was wrong with this? You need to keep these women in line now and again." *In re Romano*, (New York State Commission on Judicial Conduct, August 7, 1998).

In what can only be deemed as an example of "grossly insensitive conduct," Judge Steensland requests that an elderly black male, called before the court on a minor

offense, "dance" in front of a court room full of people.

Ms. Rae was so disturbed by her treatment that she filed a complaint with the Judicial Inquiry Commission and made the incident known to the local news media. Judge Steensland then writes what purports to be a "letter of explanation and apology" to Ms. Rae and sends a copy of that letter to the media. The Alabama Canons of Judicial Ethics require a judge to abstain from public comment about a pending or impending proceeding in any court. ACJE, Canon 3,A(6). Judge Steensland, on the day after the ruling in Ms. Stacie Rae's, wrote a letter to Ms. Rae attempting to explain his actions toward her in court and Judge Steensland had a copy of that letter delivered to the media.

## CONCLUSION

The conduct of Judge M. John Steensland does serious damage to the integrity of the Alabama Judicial System and, in particular, to the Courts of Houston County. The Judges in the Alabama Judicial System have a right to know that the conduct of Judge Steensland was wrong and will not be tolerated. The people of this State deserve and have a right to demand that their Courts treat them fairly, impartially, and with dignity.

Judge Steensland has retired from the bench but remains, even though retired, a "judge of the state." Judge Steensland should not be able to avoid further penalty for his actions merely because he has retired.

Public censure; suspension from his office as a retired judge for a period of time *with a loss of pay*; and, a prohibition of future service in the Judicial System of Alabama should be considered by the Court. The Judicial Inquiry Commission urges the Court to take advantage each and every sanction available.



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**CERTIFICATE OF SERVICE**

I hereby certify that on this the 25<sup>th</sup> day of February, I e-mailed the foregoing pleading to the Clerk of the Court of Civil Appeals and delivered a copy by United States mail, first class postage prepaid, to:

Hon. M. John Steensland, III  
Attorney for Hon. M. John Steensland, Jr.  
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A handwritten signature in black ink, appearing to read 'T. E. Harrison', with a long horizontal line extending to the right.

**THOMAS E. HARRISON**